

TDI Response to House Insurance Committee  
Request for Information of August 11, 2020

September 8, 2020

Charge One: Part B  
Implementation of SB 1852 (short term limited duration plan  
disclosures) and supplemental questions

## **Texas Department of Insurance**

Response to House Insurance Committee

September 8, 2020

**SB 1852, which requires certain disclosures for insurers that offer short-term limited duration plans. Study whether similar consumer disclosures and other safeguards are needed for nontraditional health coverage products marketed to individuals or small employers in Texas. Identify any gaps that leave consumers without needed information or consumer protections, including network adequacy and protections from surprise medical bills.**

### **Alternative health plans**

The types of alternative plans or products marketed in Texas include:

- Short-term limited duration (STLD)
- Accident-only (including accidental death and dismemberment)
- Specified disease (sometimes called critical illness)
- Hospital indemnity or other fixed indemnity

TDI has [posted consumer information](#) on its website about alternative health plans along with a [shopping guide](#) with questions to ask when buying health coverage.

### **SB 1852 and STLD plans**

TDI adopted [rules](#) for a plain language disclosure for STLD health plans in December 2019 as required by SB 1852. The agency also [issued a bulletin](#) to encourage plans to include similar disclosure information during 2019 open enrollment even though SB 1852 did not apply to plans until January 1, 2020.

TDI does not track issuers marketing STLD plans. However, TDI has received SB 1852 disclosure form filings from 12 issuers; nine have been reviewed and approved, three remain pending. In reviewing each form filing, we check whether the underlying policy complies with the disclosure law.

### **TDI oversight**

Alternative plans issued to individual policyholders must file rates with TDI, consistent with [Section 1701.057\(c\)](#) of the Texas Insurance Code. These plans also must file policy forms with TDI, but they can file as exempt from TDI review if a company certifies that its forms comply with the [appropriate TDI checklist](#). TDI audits a sample of exempt filings. If a filing fails audit, the issuer must submit corrections and issue amendments to achieve compliance.

## **Texas Department of Insurance**

Response to House Insurance Committee

September 8, 2020

### **Alternative plans sold through associations**

Issuers are not required to file rates for alternative plans sold through associations, and TDI rules for alternative plans apply to individual plans only. Before an insurer issues a plan to an association, the insurer must file the association's articles of incorporation, bylaws, and constitution with TDI and demonstrate that the association is eligible under Texas law. TDI is exploring rules that could clarify requirements for association plans.

### **Data related to alternative plans**

Nationally, there is limited information about the number of people who purchase alternative health products.

[The NAIC Accident and Health Policy Experience Report](#) provides national data on premium volume, loss ratio, and covered lives. It separately delves into short-term medical, accident only or AD&D, specified/named disease, and other medical (non-comprehensive) plans, which includes hospital indemnity. The NAIC report presents information on group versus individual coverages differently. That makes it difficult to estimate the number of covered lives by each product type.

### **Alternative plan complaints**

TDI received 159 complaints about alternative health plans in calendar year 2019 and 192 complaints in 2018 – representing just more than 1% of the complaints related to the life and health policies over those two years. More detailed data about these complaints is in the accompanying “Part 6 - Alternative health plan complaints” spreadsheet.

In general, state law requires TDI to code complaints as confirmed or not confirmed. A confirmed complaint is:

- An apparent violation of a policy provision, contract provision, rule, or statute.
- A valid concern that a prudent layperson would regard as a practice or service that is below customary business or medical practice.

TDI does not compile a complaint index by company for alternative plans. The TDI complaint index for insurance companies includes all products that the company sells, both the company's traditional health plans and any alternative products.

## **Texas Department of Insurance**

Response to House Insurance Committee

September 8, 2020

### **Disclosures**

SB 1852 requires a specific consumer disclosure form for STLD plans. Other alternative plans issued directly to individuals must provide an outline of coverage, consistent with [Sections 1201.107 and 1201.108](#) of the Texas insurance code.

Associations issuing plans are not required to provide an outline of coverage or other disclosure document. People insured through such plans must receive a certificate under [Section 1251.201](#) of the code. The certificate must identify the person to whom benefits are payable and summarize the coverage and specify annual deductibles, annual and lifetime policy limits, and maximum out-of-pocket expenses.

### **State network adequacy requirements and surprise billing protections**

Network adequacy requirements and surprise billing protections are based on [Chapter 1301](#) of the insurance code related to preferred provider benefit plans and inclusive of exclusive provider benefit plans. These requirements apply to plans that cover "medical or surgical expenses incurred as a result of an accident or sickness," and provide different levels of benefits for in-network vs. out-of-network care.

Few, if any, alternative plans are structured in a way that would make network adequacy requirements and balance billing protections under Chapter 1301 apply.

Most alternative plans exclude coverage for preexisting conditions, regardless of whether underwriting occurred on an individual basis at the time coverage was issued. Some alternative plans provide medical expense benefits. But they are based on a traditional indemnity structure, subject to a reimbursement methodology and a maximum amount regardless of the medical provider.

Some alternative plans are marketed as a substitute for more expensive major medical plans. These plans often include a provider network that functions as a discount plan alongside fixed indemnity benefits.

To draw a clear line between major medical coverage and alternative health plans, TDI does not permit alternative benefit plans to combine different types of coverage under a single policy if that combination includes benefits based on expenses incurred and coverage for both accident and sickness. That combination of factors disqualifies a plan

## **Texas Department of Insurance**

Response to House Insurance Committee

September 8, 2020

from treatment as an “excepted benefit” (exempt from federal ACA requirements) and subject to review as major medical coverage, subject to all applicable state-mandated benefits and guaranteed renewability requirements.

### **Mental health parity**

Neither accident-only, specified disease, nor fixed indemnity plans are subject to parity requirements. A STLD plan is subject to parity requirements if it covers mental health or substance abuse disorder (MH/SUD). But individual STLD plans may choose to exclude coverage for MH/SUD—avoiding parity requirements.

Association STLD plans are subject to mandates to cover serious mental illness under [Section 1355.004](#) of the insurance code; autism under [Section 1355.015](#); and chemical dependency under [Section 1368.004](#). If an association purchases a “consumer choice” plan authorized under Chapter 1507 of the insurance code, the plan could elect to exclude coverage for autism and chemical dependency.

### **Prompt pay laws**

Alternative plans issued to individual policyholders must pay “immediately on receipt of due written proof of loss” under [Section 1201.214](#) of the Insurance Code.

Alternative plans issued to associations must pay “not later than the 60th day after the date the proof of loss is received,” as stated in [Section 1251.113](#) of the Insurance Code.

Requirements under Insurance Code [Chapter 542](#), related processing and settlement of claims also apply to the extent that they provide greater protections than other requirements.

Prompt pay requirements and associated penalties under [Chapter 1301](#) do not generally apply to alternative benefit plans.

### **Health care discount and health care sharing ministries products**

Health care discount and health care sharing ministry products are not considered insurance. TDI generally classifies consumer calls about them as inquiries. In fiscal year 2019, TDI received 22 consumer inquiries about health care discount products and 14 consumer inquiries about health care sharing ministries.

**Texas Department of Insurance**

Response to House Insurance Committee

September 8, 2020

A health care sharing ministry that meets state requirements presented in [Chapter 1681](#) of the Texas Insurance Code is not considered insurance and is not subject to regulation by TDI. But a sharing program that does not meet the statutory requirements may be considered unauthorized insurance.

Discount health care programs are likewise not classified as insurance though they are required under [Chapter 7001](#) of the code to register with TDI, which regulates the programs. A program that is inappropriately marketed or otherwise violates legal requirements is subject to TDI enforcement.

## **Total number of complaints about alternative health plans**

CY 2020 data is through August 20, 2020

	CY 2018	CY 2019	CY 2020	TOTAL
Complaints received	192	159	117	468
Number confirmed	16	14	20	50
Number not confirmed	176	145	97	418

### **Breakdown by major types of plans** **Hospital indemnity plans**

	CY 2018	CY 2019	CY 2020	TOTAL
Complaints received	56	44	23	123
Number confirmed	4	3	3	10
Number not confirmed	52	41	20	113

### **Short-term limited duration plans**

	CY 2018	CY 2019	CY 2020	TOTAL
Complaints received	83	62	58	203
Number confirmed	6	9	11	26
Number not confirmed	77	53	47	177

### **Specified disease plans**

	CY 2018	CY 2019	CY 2020	TOTAL
Complaints received	66	63	45	174
Number confirmed	8	2	8	18
Number not confirmed	58	61	37	156

**Texas Department of Insurance**  
Response to House Insurance Committee  
September 8, 2020

Complaints about alternative plans by company	TOTAL
GOLDEN RULE INSURANCE COMPANY	51
FREEDOM LIFE INSURANCE COMPANY OF AMERICA	37
NATIONAL HEALTH INSURANCE COMPANY	32
LIFESHIELD NATIONAL INSURANCE CO.	30
SOUTHWEST SERVICE LIFE INSURANCE COMPANY	20
AMERICAN FAMILY LIFE ASSURANCE COMPANY OF COLUMBUS	19
PHILADELPHIA AMERICAN LIFE INSURANCE COMPANY	16
FEDERAL INSURANCE COMPANY	15
TRANSAMERICA LIFE INSURANCE COMPANY	14
AMERICAN FINANCIAL SECURITY LIFE INSURANCE COMPANY	13
INTERNATIONAL BENEFITS ADMINISTRATORS, LLC	10
UNITEDHEALTHCARE INSURANCE COMPANY	9
METROPOLITAN LIFE INSURANCE COMPANY	9
WASHINGTON NATIONAL INSURANCE COMPANY	8
NATIONAL TEACHERS ASSOCIATES LIFE INSURANCE COMPANY	7
MUTUAL OF OMAHA INSURANCE COMPANY	7
MANHATTAN LIFE ASSURANCE COMPANY OF AMERICA	7
AXIS INSURANCE COMPANY	7
WILCO LIFE INSURANCE COMPANY	6
LIFE INSURANCE COMPANY OF NORTH AMERICA	5
CONTINENTAL AMERICAN INSURANCE COMPANY	5
COMBINED INSURANCE COMPANY OF AMERICA	5
UNITED AMERICAN INSURANCE COMPANY	4
UNIFIED LIFE INSURANCE COMPANY	4
TRANSAMERICA PREMIER LIFE INSURANCE COMPANY	4
AMERICAN HERITAGE LIFE INSURANCE COMPANY	4
AGENTRA, LLC	4
UNUM LIFE INSURANCE COMPANY OF AMERICA	3
RESERVE NATIONAL INSURANCE COMPANY	3
MERITAIN HEALTH, INC.	3
MANHATTAN LIFE INSURANCE COMPANY, THE	3
LINCOLN NATIONAL LIFE INSURANCE COMPANY, THE	3
JACKSON NATIONAL LIFE INSURANCE COMPANY	3
INDEPENDENCE AMERICAN INSURANCE COMPANY	3
HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY	3
EVEREST REINSURANCE COMPANY	3
CONTINENTAL GENERAL INSURANCE COMPANY	3
COMPANION LIFE INSURANCE COMPANY	3
CHESAPEAKE LIFE INSURANCE COMPANY, THE	3
BLUE CROSS AND BLUE SHIELD OF TEXAS, A DIVISION OF HEALTH CARE SERVICE CORPORATION	3
STANDARD SECURITY LIFE INSURANCE COMPANY OF NEW YORK	2
STANDARD LIFE AND CASUALTY INSURANCE COMPANY	2
STANDARD LIFE AND ACCIDENT INSURANCE COMPANY	2
SECURIAN LIFE INSURANCE COMPANY	2
RELIABLE LIFE INSURANCE COMPANY, THE	2
PRUDENTIAL INSURANCE COMPANY OF AMERICA, THE	2
PREMIER HEALTH SOLUTIONS, LLC	2
NEW YORK LIFE INSURANCE COMPANY	2
NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.	2
NATIONAL FOUNDATION LIFE INSURANCE COMPANY	2
NATIONAL FAMILY CARE LIFE INSURANCE COMPANY	2
NASSAU LIFE INSURANCE COMPANY OF TEXAS	2
LOYAL AMERICAN LIFE INSURANCE COMPANY	2

Complaints about alternative plans by company	TOTAL
LIBERTY NATIONAL LIFE INSURANCE COMPANY	2
INTERNATIONAL MEDICAL ADMINISTRATORS, INC.	2
GUARANTEE TRUST LIFE INSURANCE COMPANY	2
FIDELITY SECURITY LIFE INSURANCE COMPANY	2
FAMILY HERITAGE LIFE INSURANCE COMPANY OF AMERICA	2
EBIX HEALTH ADMINISTRATION EXCHANGE, INC.	2
COLONIAL LIFE AND ACCIDENT INSURANCE COMPANY	2
BOSTON MUTUAL LIFE INSURANCE COMPANY	2
BANKERS LIFE AND CASUALTY COMPANY	2
AMERICAN WORKERS INSURANCE SERVICES, INC.	2
ALLIED NATIONAL, INC.	2
ADMINISTRATIVE CONCEPTS, INC.	2
WESTERN AND SOUTHERN LIFE INSURANCE COMPANY, THE	1
UNITED OF OMAHA LIFE INSURANCE COMPANY	1
UNDERWRITERS AT LLOYD'S, LONDON	1
TIME INSURANCE COMPANY II	1
THE THORNTON INSURANCE AGENCY, LLC	1
THE BOON GROUP, INC.	1
STATE MUTUAL INSURANCE COMPANY	1
SEVEN CORNERS, INC.	1
RELIASTAR LIFE INSURANCE COMPANY	1
REGAL LIFE OF AMERICA INSURANCE COMPANY	1
PROTECTIVE LIFE INSURANCE COMPANY	1
PROFESSIONAL INSURANCE COMPANY	1
PENNSYLVANIA LIFE INSURANCE COMPANY	1
NEO INSURANCE SOLUTIONS	1
NATIONWIDE LIFE INSURANCE COMPANY	1
NATIONAL GENERAL INSURANCE COMPANY	1
MINNESOTA LIFE INSURANCE COMPANY	1
MADISON NATIONAL LIFE INSURANCE COMPANY, INC.	1
INSURANCECTPA.COM, INC.	1
HUMANA INSURANCE COMPANY	1
HEALTH PLAN INTERMEDIARIES HOLDINGS, LLC	1
HARTFORD ACCIDENT AND INDEMNITY COMPANY	1
GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, THE	1
GLOBE LIFE AND ACCIDENT INSURANCE COMPANY	1
GENWORTH LIFE INSURANCE COMPANY	1
FIRST CONTINENTAL LIFE & ACCIDENT INSURANCE COMPANY	1
EVEREST NATIONAL INSURANCE COMPANY	1
DIRECT RESPONSE INSURANCE ADMINISTRATIVE SERVICES, INC.	1
DEARBORN LIFE INSURANCE COMPANY	1
CONTINENTAL LIFE INSURANCE COMPANY OF BRENTWOOD, TENNESSEE	1
CONSTITUTION LIFE INSURANCE COMPANY	1
CONSECO LIFE INSURANCE COMPANY OF TEXAS	1
CIGNA HEALTHCARE OF TEXAS, INC.	1
CIGNA HEALTH AND LIFE INSURANCE COMPANY	1
BAY BRIDGE ADMINISTRATORS, LLC	1
AMERICAN PUBLIC LIFE INSURANCE COMPANY	1
AMERICAN INCOME LIFE INSURANCE COMPANY	1
AMERICAN HEALTH AND LIFE INSURANCE COMPANY	1
AMERICAN FIDELITY ASSURANCE COMPANY	1
ADROIT HEALTH GROUP LLC	1
AAA LIFE INSURANCE COMPANY	1

Questions? Contact [GovernmentRelations@tdi.texas.gov](mailto:GovernmentRelations@tdi.texas.gov).